IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 13006 of 2004

Between:

Hami Mohammad Kareemulla S/o Abdul Rahaman Saham
8-2-29, Punja Centre Wynchipet Vijayawada-1

..... PETITIONER

AND

The Vijayawada Municipal Corporation Vijayawada
rep. by its Commissioner

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly in the nature of writ of Mandamus declaring the action of the officials of the respondent herein in interfering with petitioners peaceful possession and enjoyment of an extent of Ac. 2.04 cents of land bearing RS Nos.35/1, and 36/1 situated in Bhavanipuram of Vijayawada Without following the due process of law as arbitrary, illegal capricious, circumvent apartment from gross violation of rights of the petitioner guaranteed under Art 300-A of the Constitution of India and consequently direct the respondent not to interfere with peaceful possession and enjoyment of the petitioner's land without following due process of law.

Counsel for the Petitioner:MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent: MR.T.S.VENKATARAMANA, Standing Counsel.

The Court at the stage of admission made the following ORDER:

Heard the learned counsel for the petitioner and also the learned Standing Counsel for the respondent-Municipal Corporation, Vijayawada.

Both the counsel agreed that the writ petition can be disposed of at the admission stage.

Petitioner for recovery of possession of the land to an extent of Ac.2-04 cents in RS.Nos.35/1 and 36/1 situated at Bhavanipuram, Vijayawada, which was grabbed by the unsocial elements, filed L.G.O.P.No.335 of 1983 before the I-Additional District Judge's Court, Machilipatnam, in which, eviction orders were passed. During the course of implementation of the said orders, one M.Sathyam and others filed W.P.No.1445 of 2003 against the petitioner and others before this Court and on dismissal of the same, they have filed W.A.No.1614 of 2003, which was also dismissed and the special leave petition filed by them was also dismissed. Thereafter, possession of the land in question was delivered to the petitioner as per Certificate dated 12-01-2004.

It is stated by the petitioner that when he tried to construct the compound wall to safeguard his land, one person at the instance of the respondent Corporation tried to grab the land once again. Then, he made a complaint to the Police, who registered the same as a case in Crime No.159 of 2004 against the person who interfered with his possession. When he is trying to raise fencing around the land to avoid attempt of grabbers, the officials of the respondent Corporation objected the

same. Though he paid necessary fee through a challan seeking permission in order to construct the compound wall, the respondent Corporation has not granted permission and not taken any action.

If the petitioner made any application seeking permission to construct a compound wall, as the case may be, the officials of the respondent Corporation are under obligation to consider the same and pass necessary orders.

In view of the same, the petitioner is at liberty to make an application to the respondent Corporation seeking permission for construction of a compound wall or any further construction, if required, as per the building bye-laws on payment of necessary fees through challan, which is said to have been paid by him for the said purpose, within a period of one week from the date of receipt of a copy of this order and on making such application, the respondent shall pass appropriate orders within a period of two weeks from the date of making of such application.

The writ petition is accordingly disposed of. No costs.

26th JULY, 2004.

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To

1 The Commissioner, Vijayawada Municipal Corporation, Vijayawada.
2 Two CD copies.